

**COMMONWEALTH OF MASSACHUSETTS
BEFORE THE
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

**Investigation by the Department of
Telecommunications and Energy on
Its Own Motion into the Provision
of Default Service**

D.T.E. 02-40

**SUPPLEMENTAL COMMENTS OF
DUKE ENERGY TRADING AND MARKETING, LLC**

Duke Energy Trading and Marketing, LLC (“DETM”) hereby files the following supplemental comments in the above-captioned proceeding. As DETM stated in its initial comments and emphasizes here, the Massachusetts Department of Telecommunications and Energy (“Department”) should strike a balance between safeguarding Default Service and promoting retail competition, while also providing reasonable prices to consumers. DETM believes, as set forth below and reflected in many of the comments submitted by other parties, that the Department can achieve this three-fold goal by maintaining many of the attributes of the current Default Service model with certain changes to Default Service pricing. DETM submits the following supplemental comments in support of that position.

DETM believes that the pricing of Default Service is critical in safeguarding Default Service as a provision of last resort (“POLR”), and in promoting electric competition in Massachusetts. In its prior orders, the Department has noted that “Default Service prices must take into account the full costs of providing the service in order to encourage the

development of robust competitive markets.”¹ Similarly, the Department observed in the *Opening Order*, with regard to Standard Offer Service, that recovery of some of the costs of providing Default Service through distribution charges masks the true cost of the service and impedes the creation and growth of competitive electric markets.² Indeed, numerous parties in this proceeding have expressed their concern about the weaknesses in the current pricing of Default Service.

It is DETM’s belief that properly priced Default Service will promote financially secure providers, stimulate competitive growth, and ensure reasonable, market-based prices for consumers. For those reasons, DETM supports—as it appears that most parties in this proceeding support—the unbundling of Default Service-related costs (including costs associated with procurement, administration, billing, optionality, congestion, and bad-debt) from the distribution company’s (“DC”) delivery charges. Such an unbundling would send accurate price signals to consumers on the cost of providing Default Service by “unmasking” costs that are now imbedded in the delivery charges. Similarly, by removing customer service costs from the delivery charges, which are paid by all customers, including customers choosing competitive retail providers, these providers will have the necessary “headroom” to offer their own customer services, perhaps at more competitive prices, providing a price incentive for customers to select a competitive service provider.

¹ *Investigation into the Pricing and Procurement of Default Service*, DTE 99-60-A, at 10.

² In this regard, the Department noted in its *Opening Order* that below-market prices had hindered the development of competitive markets. See *Opening Order*, DTE 02-40 at 5.

In this same context, however, DETM opposes any action designed to artificially induce competition in the retail market by either including an adder in the Default Service price or auctioning customer classes to retail providers.³ Although DETM recognizes that such artificial actions may jump-start competitive markets, such actions also interject unnecessary risks to the availability and quality of Default Service. Without credit assurance provisions, necessary capital, or a proven history of navigating the risky electric market, the auctioning of customer classes to unknown retail providers unnecessarily exposes Massachusetts consumers to greater risk of default by their POLR provider. Such jump-start approaches also expose Massachusetts customers to artificially high Default Service prices and are inconsistent with the principles of charging Default Service customers a market price for electricity and of allowing customer choice.

Moreover, DETM does not believe that such artificial actions are necessary, because, as discussed above, Default Service has never been priced properly, and therefore has not had an opportunity to work properly in the absence of artificial stimulants. The Department should first give a properly priced Default Service (i.e., one priced in line with its actual costs, including procurement and administrative costs) an opportunity to work to provide its own “natural” stimulus to competition. Only after the Department takes the

³ For example, the comments of the Competitive Retail Suppliers (AES New Energy, Centrica N.A., Green Mountain Energy, Strategic Energy and TXU), and Massachusetts Electric Company and Nantucket Electric Company support an auctioning of the Default Service customer classes or a similar mechanism that would remove DCs from their roles as Default Service providers. Moreover, the Massachusetts Electric Company’s proposal also includes what amounts to an artificial adder, whereby Default Service customers are charged a rate based on the highest auction bid price regardless of the winning wholesale bid.

necessary steps to fix current Default Service pricing should the Department consider—in a later proceeding, if necessary—whether to stimulate the market through artificial means.

The need to safeguard Default Service against unnecessary risks, as DETM and several other parties emphasized in their comments, cannot be understated. Default Service is not a competitive choice, but rather a POLR service that is meant to provide a backstop for those Massachusetts consumers that need electric service under “any circumstances that may cause them not to receive service from a competitive supplier at a given time.”

DTE 99-60-A, at 2. It is for that reason that DETM continues to support a provision of Default Service that maintains the current DCs’ status as Default Service providers, as these companies have a proven history of delivering service at reasonable prices.⁴ DETM also maintains its support for six-month to one-year procurement contracts, as these shorter contracts offer a suitable balance between reasonable generator prices for customers and manageable migration risk for suppliers.⁵

Ultimately, DETM believes that the current market conditions and the importance of Default Service dictates a cautious, measured approach in the development of Default Service for the period beginning 2005. The essential character of Default Service should be

⁴ DTE should not allow alternative Default Service providers, as proposed by some parties, unless the DTE has established sufficient criteria, such as creditworthiness and other security mechanisms, to protect Default Service customers from supplier default.

⁵ In this connection, DETM supports the use of staggered procurement contracts, as suggested by the Massachusetts Division of Energy Resources (“DOER”), NSTAR Electric, and The Energy Consortium, with a modification. Such staggered contracts offer greater stability and lower prices to consumers. DETM, however, does not support DOER’s recommendation to permit longer-term (2-year) procurement contracts, as longer-term contracts would create greater migration uncertainty resulting in a higher migration risk premium being factored into the Default Service price. In short, DETM believes that longer contracts would expose wholesale providers to greater risks and would negate the price benefits of offering staggered contracts.

retained, with modifications to Default Service pricing. As set forth above, DETM does not believe the Department needs to artificially stimulate competition, when the current pricing structure can be modified to ensure that all costs associated with Default Service are included in the price. Such pricing modification will promote competition, without unnecessarily exposing Default Service and Default Service customers to the risks associated with a retail market. It will thereby achieve the three-fold goals of this proceeding—safeguarding of Default Service, promoting retail competition and providing reasonably priced POLR service to consumers.

Respectfully submitted,

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September 6, 2002

CERTIFICATE OF SERVICE

I hereby certify that on this day I served the foregoing document and ten copies to Secretary Mary L. Cottrell, Department of Telecommunications and Energy, by overnight delivery service and will serve this filing via electronic mail to dte.efiling@state.ma.us, jeanne.voveris@state.ma.us, and to the parties listed on the electronic mail service list on September 9, 2002.

Dated at Washington, D.C. this 6th day of September, 2002.

George E. Johnson